

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JUL 26 2018 ★

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GLOBAL DRILLING SUPPLIERS, INC., :
: LONG ISLAND OFFICE
Plaintiff, : ORDER
-against- : 13-CV-1106 (JFB)(SIL)
:
PIER TECH, INC., :
: Defendant.
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JOSEPH F. BIANCO, District Judge:

On June 27, 2018, Magistrate Judge Steven I. Locke issued a Report and Recommendation (the “R&R”), recommending that plaintiff be awarded (1) damages (for unpaid invoices) in the amount of \$390,050.55; (2) prejudgment interest in the amount of \$143,828.85, plus \$69.42 per day until judgment is entered; (3) post-judgment interest in accordance with 28 U.S.C. § 1961(a); and (4) costs in the amount of \$630.34. The R&R further recommends that plaintiff’s application for attorney’s fees be denied for failure to identify a contractual arrangement between the parties or applicable statute contemplating the payment of attorney’s fees, and that plaintiff’s request for \$610.00 in additional court costs be denied without prejudice and with leave to renew upon the submission of the appropriate supporting documentation. The R&R was served on defendant on June 29, 2018. (ECF No. 32.) The R&R instructed that any objections to the R&R be submitted within fourteen days of its receipt. (R&R at 15.) The date for filing any objections has thus expired, and no party has filed an objection to the R&R. For the reason set forth below, the Court adopts the thorough and well-reasoned R&R in its entirety.

Where there are no objections, the Court may adopt a report and recommendation without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de*”

novo or any other standard, when neither party objects to those findings.”); *see also Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”); *cf.* 28 U.S.C. § 636(b)(1)(c) and Fed. R. Civ. P. 72(b)(3) (requiring *de novo* review after objections). However, because the failure to file timely objections is not jurisdictional, a district judge may still excuse the failure to object in a timely manner and exercise its discretion to decide the case on the merits to, for example, prevent plain error. *See Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003) (“[B]ecause the waiver rule is non jurisdictional, we ‘may excuse the default in the interests of justice.’” (quoting *Thomas*, 474 U.S. at 155)).

Although no party has objected to the R&R, the Court has conducted a *de novo* review of the R&R in an abundance of caution. Having conducted a review of the record and applicable law, and having reviewed the R&R *de novo*, the Court adopts the thorough and well-reasoned R&R in its entirety. Accordingly, IT IS HEREBY ORDERED that the Court awards plaintiff: (1) damages (for unpaid invoices) in the amount of \$390,050.55; (2) prejudgment interest in the amount of \$143,828.85, plus \$69.42 per day until judgment is entered; (3) post-judgment interest in accordance with 28 U.S.C. § 1961(a); and (4) costs in the amount of \$630.34.

IT IS FURTHER ORDERED any renewed application for attorney’s fees and/or additional costs shall be submitted to the Court by August 24, 2018, along with the appropriate supporting documentation.

IT IS FURTHER ORDERED that counsel for plaintiff shall serve a copy of this Order on defendant and file proof of service with the Court.

SO ORDERED.

Joseph Bianco
JOSEPH BIANCO
UNITED STATES DISTRICT JUDGE

Dated: July 25, 2018
Central Islip, NY